IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

WP(C).No. 11329 of 2007(W)

PETITIONER:

POPULAR VEHICLES AND SERVICES LTD.,
MAMANGALAM, ERNAKULAM, REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADV. SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN

RESPONDENTS:
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1. **ASSISTANT COMMISSIONER (ASSESSMENT) II,**
SPECIAL CIRCLE III, COMMERCIAL TAXES, ERNAKULAM.

2. **THE DEPUTY COMMISSIONER (APPEALS),**
COMMERCIAL TAXES, ERNAKULAM.

BY SR.GOVERNMENT PLEADER SRI.MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 11329 OF 2007-W

JUDGMENT

The petitioner attacks Ext.P5 interim order, disposing of two stay petitions filed by it along with S.T.A Nos.406 & 407/2007. The petitioner is mainly engaged in the sales and service of Maruti vehicles. The main grievance raised by it against the impugned assessment orders Exts.P1 and P2, is that the warranty claim released by Maruti Udyog Limited has also been taken as part of the sales turnover. The claim for reduction in tax for the vehicles sold to the military canteen was rejected by the assessing authority. Those grievances were not considered by the appellate authority properly. If they were considered, stay would have been granted on more liberal terms, it is submitted.

2. Heard the learned Government Pleader for the respondents. He submitted that the claim of the petitioner concerning the warranty amount is covered against it by the decision of the Apex Court. It is further submitted that the sales in this case have been made not to the military canteen, but to individuals. Therefore, the claim for reduction in tax is untenable. The learned counsel for the petitioner explained that on the sale of a motor

vehicle, which has to be registered, the tax invoice can be issued only in the name of the individual concerned. I think, this is a matter which should be considered by the appellate authority. The learned counsel submitted that out of Rs.50 lakhs, the petitioner has already paid Rs.10 lakhs.

3. Having regard to the contentions raised, I feel that stay order should be granted on more liberal terms. Accordingly, if the petitioner pays Rs.15 lakhs on or before 16.4.2007, further recovery of the tax due for the years 2000-01 and 2001-02 shall be kept in abeyance till the disposal of the appeals, provided it furnishes security for the balance amount. The petitioner shall co-operate with the appellate authority for early dispoal of the appeals, without taking unnecessary adjournments. The appellate authority shall endeavour to hear and dispose of the appeals as expeditiously as possible, at any rate, within four months from today.

The Writ Petition is disposed of as above.

2nd April, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/